IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.683 OF 2006
IN
FIRST APPEAL NO.1406 OF 2005

Shrikant Vinayakrao Kulkarni ...Applicant
Versus
Dr.Ram Anant Kulkarni (since deceased through
1(a)Smt.Sushma R.Kulkarni & Ors. ...Respondents

Shri S.G.Deshmukh for the Applicant.
Shri S.S.Pandit for the Respondent Nos.1 and 2.

CORAM : ABHAY S.OKA, J.
DATED : FEBRUARY 28, 2007.

P.C.:

1. Heard the learned Advocate appearing for the Applicant and the learned Advocate for the proposed Respondents. The contention of the Advocate for the Applicants is that the Respondents have purchased the property in dispute after filing of the Appeal and after an ad-interim order was passed on 05th May, 2004. The submission of the Advocate for the proposed Respondents is that there is no relief claimed as against the proposed Respondents and therefore, the proposed Respondents are neither necessary nor proper parties. He submitted that a notice under section 52 of the Transfer of Property Act, 1882 of the pendency of the this Appeal was not registered by the Applicants.

2. Prima facie it appears to me that during the pendency of the Appeal, after an ad-interim order was

passed by this Court, the property has been transferred to the proposed Respondents. There is no specific averment in the reply of the proposed Respondents that an investigation as regards title was made by proposed Respondents before acquiring the property.

3. The learned counsel appearing for the proposed Respondents relied upon a decision of the Supreme Court in the case of **J.J.Lal Pvt Ltd & Ors Vs. M.R.Murali & Anr (A.I.R 2002 Supreme Court Page 1061)**. In the present case, the original Respondents in the Appeal have transferred the property to the proposed Respondents after ad-interim order was passed by this Court. Therefore, prayer (a) will have to be granted. So far as prayer (b) is concerned, the injunction as prayed cannot be granted. However, all further actions of the said Respondents will be subject to final outcome of the Appeal.

4. Hence, I pass the following order:

(i) Application is allowed in terms of prayer clause (a). Amendment to be carried out within six weeks. All further transactions made by the added Respondents will be subject to final outcome of the Appeal.

JUDGE